

**U.S. DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVE., SW
WASHINGTON, DC 20585**

In the Matter of:

Target Corporation

Case Number: 2010-SE-2001

**SUBPOENA
FOR INFORMATION AND PRODUCTION OF DOCUMENTS**

To: Gregg Steinhafel, President
Target Corporation
1000 Nicollet Mall
Minneapolis, MN 55403

Service by fax and certified mail

To: C T Corporation System
1015 15th Street NW, Suite 1000
Washington, DC 20005-2621

Copy sent by certified mail

Issued: March 23, 2010

The U.S. Department of Energy (DOE) issues this Subpoena for Information and Production of Documents to Target Corporation (Target) pursuant to 42 U.S.C. § 6299 of the Energy Policy and Conservation Act (EPCA) and the regulations promulgated thereunder (10 C.F.R. § 430.72).

As you should be aware, pursuant to EPCA, DOE has established an energy conservation standard applicable to torchieres. *See* 42 U.S.C. § 6295(x); 10 CFR 430.32(t). Private labelers are prohibited from distributing in commerce any product that fails to comply with such a standard. 42 U.S.C. § 6302(5); 10 C.F.R. § 430.61(4).

DOE has received information suggesting that two Target brand lighting products do not comply with the energy conservation standards for torchieres set forth in EPCA and DOE's regulations—Target Floor Lamp Combo Task, model # 074-02-2163 and Target Floor Lamp Mica Shade, model # 074-02-2165. Upon receipt of this information, DOE initiated an inquiry into the compliance of these models and requires certain information to continue its examination. To this end, and in accordance with its authority under 42 U.S.C. § 6299, DOE is issuing this subpoena to Target.

Failure to provide information and documents violates 42 U.S.C. § 6302 and DOE's accompanying regulations (10 C.F.R. § 430.61). Failure to obey this subpoena may result in eventual penalties imposed by a court of law.

Target's responses to the requests for information and documents must be received by DOE no later than 30 days after the date of this subpoena.

Date 3/23/10

Scott Harris
Scott Blake Harris
General Counsel

QUESTIONS

- 1) **Model 1 Information.** For Target Floor Lamp Combo Task, model # 074-02-2163 identify:
 - a) the number of watts of power consumed;
 - b) whether the model is capable of operating with lamps that total more than 190 watts;
 - c) the first date placed in commerce in the United States;
 - d) the dates of manufacture; and
 - e) if applicable, the date on which Target discontinued the model by ceasing to distribute it in commerce.
- 2) **Model 2 Information.** For Target Floor Lamp Mica Shade, model # 074-02-2165 identify:
 - a) the number of watts of power consumed;
 - b) whether the model is capable of operating with lamps that total more than 190 watts;
 - c) the first date placed in commerce in the United States;
 - d) the dates of manufacture; and
 - e) if applicable, the date on which Target discontinued the model by ceasing to distribute it in commerce.
- 3) **Manufacturer Information.** For each model provide the name of the manufacturer, and the mailing address and main telephone number of the corporate headquarters of each such manufacturer.
- 4) **Number of Units.** For each model that was manufactured on or after January 1, 2006, state the number of units that Target has distributed in commerce. To the extent possible, identify the recipients of each model and the number of units of that model that were distributed to each recipient.
- 5) **Possession of Units.** For each unit listed in Response to Question 4, state the location (city, state, and country) where Target took legal possession of the unit.

REQUESTS FOR DOCUMENTS

- 1) **Design Information and Technical Documents.** All detailed design information and technical specifications and documents related to (a) Target Floor Lamp Combo Task, model # 074-02-2163 and (b) Target Floor Lamp Mica Shade, model # 074-02-2165. Include each model's:
 - i) service and owner's manual;
 - ii) operating instructions;
 - iii) documentation describing (1) the number of watts of power consumed by that model, and (2) whether that model is capable of operating with lamps that total more than 190 watts;
 - iv) schematics; and
 - v) descriptions and specifications for each component.
- 2) **Testing.** All records and other documentation pertaining to any laboratory testing for (a) Target Floor Lamp Combo Task, model # 074-02-2163 and (b) Target Floor Lamp Mica Shade, model # 074-02-2165.
- 3) All documents, not otherwise specifically requested, based on which Target has concluded that (a) Target Floor Lamp Combo Task, model # 074-02-2163 and (b) Target Floor Lamp Mica Shade, model # 074-02-2165 meet the energy conservation standards in 10 C.F.R. § 430.32(t).

ATTACHMENT A

DEFINITIONS¹

Manufacture means to manufacture, produce, assemble, or import.

Manufacturer means any person who manufactures a consumer product.

Person includes any individual, corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company, the government, and any agency of the United States or any State or political subdivision thereof.

Private labeler means an owner of a brand or trademark on the label of a consumer product which bears a private label. A consumer product bears a private label if:

- (1) Such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product;
- (2) The person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled; and
- (3) The brand or trademark of a manufacturer of such product does not appear on such label.

Target means Target Corporation, its corporate parents, subsidiaries, and affiliates, and all of their officers, employees, and agents.

Torchiere means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination. Additional information is available at:
http://www1.eere.energy.gov/buildings/appliance_standards/residential/torchieres.html

¹ For other applicable definitions, see 10 C.F.R. § 430.2.

INSTRUCTIONS FOR RESPONDING TO THIS SUBPOENA

- Both the responses to the questions and the responses to the requests for documents must be dated, signed by a person authorized to speak for Target, and notarized with the following statement:

“I declare under penalty of perjury that the foregoing is true and correct.
Executed on [date].”

- Responses and documents subject to this subpoena must be submitted whether or not Target believes that DOE already has been provided the information or documents sought by this subpoena.
- The responses to the questions must be numbered and the numbers must correspond to the numbered questions.
- For document requests, in addition to providing copies of the requested documents, provide a written response, with numbers corresponding to the requests, indicating whether you are providing the requested documents, or, if you are not, the reason for not providing the requested documents. If a claim for attorney-client or other privilege is asserted, provide a description of the document by date, author(s) and/or recipients(s), subject matter, and the type of privilege you claim.
- All documents produced in response to this subpoena must be organized with the number of the document production request to which they respond. When the documents would not, standing alone, be self-explanatory, an explanation should be provided in the response to the request.
- The singular includes the plural; the plural includes the singular. “And” as well as “or” shall be construed either disjunctively or conjunctively, to bring within the scope of this subpoena all responses that might otherwise be construed to be outside its scope. “Each” shall be construed to include “every” and “every” shall be construed to include “each.” “Any” shall be construed to include “all” and “all” shall be construed to include “any.” The use of a verb in any tense shall be construed as the use of the verb in a past or present tense, whenever necessary to bring within the scope of the document request all responses which might otherwise be construed to be outside its scope.
- If you claim that any of the information or documents sought by this subpoena constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, you must follow the procedure set out in 10 C.F.R. § 430.75 (provide one complete and full copy and 15 copies with the confidential information deleted) and submit supporting information together with the materials that are the subject of the

confidentiality request. Failure to adhere to these procedures will result in a rejection of your request for confidential treatment.

- The information and documents to be provided in response to this subpoena include any and all information, from whatever source derived, which is known to, or in the possession or under control of, Target.
- If any information is submitted electronically, the information should be submitted on a CD-ROM that is labeled with the subject matter (“Target Corp. – torchieres”) and the date of its submission to DOE. Each file should be named and labeled in a manner that readily identifies the question or request for documents to which the information contained therein is responsive. If a particular file is not provided in a common format (e.g., Word or PDF) and requires the use of special software that is not readily available, Target must provide a copy of that software with its submission. If Target seeks confidential treatment on the basis of Exemption 4 of the Freedom of Information Act for any of the materials it submits, it must follow the procedures set out in 10 C.F.R. § 1004.11.
- Where documents responsive to this subpoena include photographs, actual photographs rather than photostatic copies must be provided.
- Target may provide a copy in lieu of the original document only if the copy is complete and legible.
- Target’s response to this subpoena, together with all responsive documents and any confidentiality request, must be sent by FedEx and addressed to:

Laura Barhydt
Office of the General Counsel
United States Department of Energy
Room 6A-245
1000 Independence Ave., SW
Washington, DC 20585-0121

- Failure to provide an accurate and full response to this subpoena could subject Target to penalties under 42 U.S.C. § 6303 as well as those under 18 U.S.C. § 1001.